

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 12(15)(a)(4), the Department of Human Services hereby amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

This amendment implements the cost-containment strategy to adjust the inpatient diagnostic related group (DRG) cost outlier threshold formula to be the greater of two times the statewide average DRG payment for that case, or the hospital’s individual DRG payment for that case plus \$75,000. The current formula is the greater of two times the statewide average DRG payment for the case, or the hospital’s individual DRG payment for the case plus \$16,000.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3166C** on July 5, 2017. This amendment was also Adopted and Filed Emergency and published as **ARC 3161C** on the same date and became effective July 1, 2017. The Department received comments from one respondent. A summary of the respondent’s comments and the Department’s responses are shown in the paragraphs below. This amendment is identical to that published under Notice of Intended Action and Adopted and Filed Emergency.

Comment 1: The respondent stated that while the public notice and the informational letter state that this change in reimbursement for DRG cost outlier payments will be effective July 1, 2017, the proposed effective date does not align with the language approved by the Legislature in 2017 Iowa Acts, House File (HF) 653.

Department response 1: Pursuant to HF 653, section 12(15)(b), the effective date of these changes is July 1, 2017. While section 12(15)(b) also provides that “[i]f federal approval is required, the strategy shall be implemented effective upon receipt of federal approval,” such does not affect the intended July 1, 2017, effective date specified by the Legislature. This is because the State Plan Amendment (SPA) submitted to the federal Centers for Medicare and Medicaid Services (CMS) requested a July 1, 2017, effective date, consistent with the Legislature’s directive in HF 653. Once approved by CMS, the changes in the SPA would be effective back to the requested July 1, 2017, effective date. Finally, section 12(15)(c) of HF 653 provides authorization for the Department to adopt emergency rules to implement this change, relative to the July 1, 2017, effective date, as specified by the Legislature. The Department is unable to change the amendment based on the respondent’s comment.

Comment 2: The respondent stated that the legislation requests federal approval of the \$75,000 threshold amount for these outlier claims and that this is a far higher threshold to obtain than the current \$16,000 amount and will result in hospitals treating the most complex Medicaid patients in the state not being adequately compensated for the care that is provided. The respondent requested that CMS consider a more reasonable outlier threshold, similar to that of Medicare.

Department response 2: These changes were enacted during the 87th Session of the Iowa General Assembly in HF 653, section 12(15)(a)(4), which specifies a cost outlier threshold of \$75,000. The Department is unable to change the amendment based on the respondent’s comment.

The Council on Human Services adopted this amendment on August 9, 2017.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 12(15)(a)(4).

This amendment will become effective October 4, 2017, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subparagraph **79.1(5)“f”(3)** as follows:

(3) Cost outliers. Cases qualify as cost outliers when costs of service in a given case, not including any add-on amounts for direct or indirect medical education or disproportionate share costs exceed the cost threshold. This cost threshold is determined to be the greater of two times the statewide average DRG payment for that case or the hospital’s individual DRG payment for that case plus ~~\$16,000~~ \$75,000. Costs are calculated using hospital-specific cost-to-charge ratios determined in the base-year cost reports. Additional payment for cost outliers is 80 percent of the excess between the hospital’s cost for the discharge and the cost threshold established to define cost outliers. Payment of cost outlier amounts shall be paid at 100 percent of the calculated amount and made at the time the claim is paid.

Those hospitals that are notified of any outlier review initiated by the QIO must submit all requested supporting data to the QIO within 60 days of the receipt of outlier review notification, or outlier payment will be forfeited and recouped. In addition, any hospital may request a review for outlier payment by submitting documentation to the QIO within 365 days of receipt of the outlier payment. If requests are not filed within 365 days, the provider loses the right to appeal or contest that payment.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/30/17.